

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lesley Henry	Team: Team # 5	CCRB Case #: 201100781	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/15/2011 1:40 PM	Location of Incident: In front of 313 Utica Avenue	Precinct: 71	18 Mo. SOL 7/15/2012	EO SOL 7/15/2012	
Date/Time CV Reported Mon, 01/17/2011 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/19/2011 6:25 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Frank Bulzoni	02681	936258	071 PCT
2. POM Leonel Ramos	28782	944155	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Mark Kistoo	10224	943444	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Frank Bulzoni	Abuse: PO Frank Bulzoni questioned § 87(2)(b)	
B.POM Leonel Ramos	Abuse: PO Leonel Ramos questioned § 87(2)(b)	
C.POM Frank Bulzoni	Discourtesy: PO Frank Bulzoni spoke obscenely and/or rudely to § 87(2)(b)	
D.POM Frank Bulzoni	Abuse: PO Frank Bulzoni frisked § 87(2)(b)	
E.POM Frank Bulzoni	Abuse: PO Frank Bulzoni searched § 87(2)(b)	

Case Summary

On January 15, 2011, § 87(2)(b) filed a complaint with the Internal Affairs Bureau via telephone (encl. 4A-B). On January 19, 2011, IAB log 11-02219 was forwarded to and received by the CCRB (encl. 3).

On January 15, 2011, at approximately 1:40 p.m., officers from the 71st Precinct encountered § 87(2)(b). The following allegations resulted:

- **Allegation A – Abuse of Authority:** PO Leonel Ramos questioned § 87(2)(b) § 87(2)(g)
- **Allegation B – Abuse of Authority:** PO Frank Bulzoni questioned § 87(2)(b) § 87(2)(g)
- **Allegation C – Discourtesy:** PO Frank Bulzoni spoke obscenely and/or rudely to § 87(2)(b) § 87(2)(g)
- **Allegation D – Abuse of Authority:** PO Frank Bulzoni frisked § 87(2)(b) § 87(2)(g)
- **Allegation E – Abuse of Authority:** PO Frank Bulzoni searched § 87(2)(b) § 87(2)(g)

Results of Investigation

Civilian Statement(s)

Complainant: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *old at the time of the incident, is a black male, 6'2" tall, 175 lbs., with black hair and brown eyes.* § 87(2)(b)

CCRB Testimony

On January 15, 2011, § 87(2)(b) provided a statement to the Internal Affairs Bureau (encl. 4A-B). On January 25, 2011, § 87(2)(b) provided a telephone statement to the CCRB (encl. 5A-B). On February 10, 2011, § 87(2)(b) provided a sworn statement to the CCRB that was consistent with his IAB statement and telephone statement. § 87(2)(g) (encl. 6A-C).

On January 15, 2011 at approximately 1:40 p.m., § 87(2)(b) and his friend, § 87(2)(b) walked toward Ali's Roti Shop to get Trinidadian food. § 87(2)(b) stated that because it was cold, he wore a black jacket with two sweaters and a face mask issued to him from the military. § 87(2)(b) wore a brown leather coat and a brown hunter's hat. In front of 313 Utica Avenue in Brooklyn, § 87(2)(b) observed a marked police vehicle with an officer, identified through investigation as PO Frank Bulzoni, in the front passenger seat and an officer, identified through investigation as PO Leonel Ramos, in the rear. § 87(2)(b) described PO

Bulzoni as a white male, 5'8" tall and 180 lbs. He described PO Ramos as a Hispanic male with a short and stocky build. PO Bulzoni looked at § 87(2)(b) and § 87(2)(b) asked § 87(2)(b) "Why do they have to look at me? I am not a bad guy." § 87(2)(b) denied using any profanity. PO Bulzoni and PO Ramos exited the vehicle and slammed the doors. This caused approximately twelve civilians to observe the encounter. One of the officers asked, "Why did you curse at the police?" § 87(2)(b) denied cursing at the officers. PO Bulzoni pointed his finger at § 87(2)(b) chest and said, "You're an asshole." § 87(2)(b) began to walk backward away from the officers and they walked closer toward him. PO Bulzoni continued to point his finger at § 87(2)(b) chest and § 87(2)(b) began to sweat as a result of his post-traumatic stress disorder. § 87(2)(b)

During the encounter, § 87(2)(b) had to fight the urge to put his military training into use as he had been trained to kill. He calmed himself down by reminding himself that he was engaged with police officers and he walked away.

PO Bulzoni grabbed § 87(2)(b) by one of his wrists and said, "Come with me," and pulled § 87(2)(b) toward the corner. PO Bulzoni placed § 87(2)(b) against a wall with his face towards the wall and frisked his ribs and thighs. § 87(2)(b) initially denied PO Bulzoni took any further action; however, he later added that PO Bulzoni had also removed items that he did not recall from his pocket and threw them on the ground. § 87(2)(b) did not allege that he had been searched when filing his complaint or during his telephone statement.

A third officer, identified through investigation as PO Mark Kistoo, approached after § 87(2)(b) had been searched and stated that he had heard § 87(2)(b) curse at the officers from across the street. § 87(2)(b) described PO Kistoo as a short, Hispanic male, wearing glasses. A few of the unidentified civilians told PO Kistoo that PO Bulzoni had called § 87(2)(b) an "asshole."

Witness: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) old at the time of the incident, is a black male. The rest of his pedigree information is not available.

Telephone statement

On March 23, 2011, § 87(2)(b) provided a telephone statement to the CCRB (encl. 9B). § 87(2)(b) was unable to appear at the CCRB because he did not wish to take time off of work and he failed to provide the CCRB with a notarized statement. On January 15, 2011, at approximately 1:40 p.m., § 87(2)(b) observed an unknown male, identified as § 87(2)(b) walking on the sidewalk. § 87(2)(b) did not recall whether § 87(2)(b) had anything covering his face. § 87(2)(b) was standing approximately ten feet away from § 87(2)(b) on the same sidewalk. Approximately three police officers exited their vehicle as if § 87(2)(b) had done something wrong. § 87(2)(b) did not hear the initial conversation that occurred between the officers and § 87(2)(b)

An officer identified through the investigation as PO Bulzoni said, "You're an asshole," to § 87(2)(b) placed him against the wall and placed his open hands along the sides of § 87(2)(b) entire body. § 87(2)(b) decided to record the incident on his BlackBerry phone because PO Bulzoni spoke discourteously toward § 87(2)(b)

Attempts to Contact Civilians

§ 87(2)(b) stated the incident was observed by an employee of § 87(2)(b) named § 87(2)(b). On March 21, 2011, the undersigned investigator spoke with § 87(2)(b) whose last name is unknown. § 87(2)(b) stated that he did not recall the incident. Between August 17 and August 24, 2011, the undersigned investigator placed five phone calls to § 87(2)(b) friend, § 87(2)(b). § 87(2)(b) was not available by phone and § 87(2)(b) was unable to provide an address for him. On October 6, 2011, a search of online databases and Lexis Nexis returned negative results for an address for § 87(2)(b).

NYPD Statement(s):

Subject Officer: PO FRANK BULZONI

- *PO Frank Bulzoni, § 87(2)(b) old at the time of the incident, is a white male, 5'9" tall, 160 lbs, with brown hair and eyes. On January 15, 2011, PO Bulzoni worked in uniform from 12:00 p.m. – 8:35 p.m. assigned to conditions with PO Ramos and PO Kistoo.*

Memo book

PO Bulzoni's memo book entries indicate that at 1:50 p.m. § 87(2)(b) was issued a § 87(2)(b) summons and a stop, question and frisk report was prepared (encl. 10A-B).

Summons § 87(2)(b)

PO Bulzoni issued summons § 87(2)(b) to § 87(2)(b) for § 87(2)(b). PO Bulzoni indicated that § 87(2)(b) cursed and screamed at police and pedestrians on a public sidewalk. He then made violent threats towards police and pedestrians causing public alarm (encl. 10C).

Stop, Question and Frisk Report

The stop, question and frisk report indicates that § 87(2)(b) was suspected of criminal possession of a weapon due to furtive movements he made and evasive responses he offered to police officers' questions. § 87(2)(b) was frisked because he was inappropriately attired and possibly concealed a weapon (encl. 10D).

CCRB Testimony

On April 27, 2011, PO Bulzoni was interviewed by the CCRB (encl. 11A-B). On January 15, 2011, at approximately 1:40 p.m., PO Bulzoni was seated in the rear passenger seat of his parked patrol car when he noticed § 87(2)(b) yelling profanities at pedestrians in front of 313 Utica Avenue in Brooklyn. PO Bulzoni did not recall § 87(2)(b) statements; however, he appeared angry. PO Bulzoni observed § 87(2)(b) for approximately 30 seconds from approximately 10 feet away; he did not recall whether PO Ramos and PO Kistoo made the same observation. § 87(2)(b) did not make any statements directed at the patrol car or the police officers prior to them exiting their vehicle. PO Bulzoni denied asking § 87(2)(b) "What the fuck did you say?" § 87(2)(b) was not wearing a mask or anything else covering his face.

The three officers exited their vehicle and PO Bulzoni asked § 87(2)(b) what he was doing. § 87(2)(b) told PO Bulzoni to mind his business and used discourtesies that PO Bulzoni did not recall. § 87(2)(b) was sweating profusely and PO Bulzoni asked him whether he was on any drugs. PO Bulzoni denied calling § 87(2)(b) a "crack head." PO Bulzoni did not recall whether he called § 87(2)(b) an "asshole" because he did not recall his exact

statements to § 87(2)(b) due to the time that had passed. § 87(2)(b) placed two balled fists in the air in a fighting stance and PO Bulzoni feared that § 87(2)(b) might have been armed. PO Bulzoni asked § 87(2)(b) whether he had any weapons on him and § 87(2)(b) said he did not and in one motion removed his jacket and threw it to the ground.

A crowd of approximately 12 people gathered and PO Bulzoni moved § 87(2)(b) towards the corner for the safety of everyone around him as he feared he may have been armed. § 87(2)(b) was escorted to the corner and placed against a wall with his hands on the wall. PO Bulzoni frisked § 87(2)(b) starting at his waistband, moving upward and then downward; the frisk returned negative results. PO Bulzoni did not observe any bulge in § 87(2)(b) clothing; however, § 87(2)(b) behavior caused him to fear for his safety. PO Bulzoni did not recall whether he had searched § 87(2)(b).

PO Bulzoni reviewed a copy of the video footage provided to the CCRB by § 87(2)(b). PO Bulzoni identified himself as the officer receiving § 87(2)(b) identification at 42 seconds into the video. PO Bulzoni agreed that he stated, “It’s called frisking,” in response to an unidentified civilian’s claim that he “placed his hands all over § 87(2)(b).” PO Bulzoni agreed that he heard an unidentified civilian say the word, “Asshole;” however, he did not hear any claim that he had called § 87(2)(b) an asshole. He did not recall anyone accusing him of such at the incident location.

Witness Officer: PO LEONEL RAMOS

- PO Leonel Ramos, § 87(2)(b) old at the time of the incident, is a Hispanic male with black hair and brown eyes. On January 15, 2011, PO Ramos worked in uniform with PO Kistoo and PO Bulzoni assigned to Summons Auto from 12:00 p.m. to 8:35 p.m.

Memo Book

PO Ramos’ memo book entries indicate that at 3:30 p.m., a black male stated, “Fuck you nigga,” to police officers seated in their patrol car. PO Bulzoni issued a summons for § 87(2)(b) (encl. 12A-C).

CCRB Testimony

On June 10, 2011, PO Leonel Ramos was interviewed at the CCRB (encl. 13A-B). On January 15, 2011, at approximately 1:40 p.m., PO Kistoo parked and entered a store across the street from the patrol car. PO Ramos and PO Bulzoni observed § 87(2)(b) who looked into the patrol car and told PO Ramos, “Fuck you niggas.” PO Ramos exited the vehicle and asked § 87(2)(b) whether everything was alright and § 87(2)(b) continued to yell. PO Ramos did not recall whether § 87(2)(b) cursed at pedestrians.

PO Bulzoni exited the vehicle and asked § 87(2)(b) whether he needed assistance. § 87(2)(b) said that the officers were harassing him because he was black and he called PO Bulzoni a rookie. § 87(2)(b) sweated profusely and explained that he suffers from post-traumatic stress disorder. PO Bulzoni did not call § 87(2)(b) a “crack head” or an “asshole.” PO Ramos did not recall whether § 87(2)(b) or anyone else had accused PO Bulzoni of such.

PO Bulzoni walked with § 87(2)(b) away from the large crowd that had gathered. PO Ramos did not follow PO Bulzoni and § 87(2)(b) to the corner. PO Ramos did not see PO Bulzoni frisk or search § 87(2)(b). PO Bulzoni returned to the patrol car and issued § 87(2)(b) a summons for § 87(2)(b) and the officers left the location.

Witness Officer: PO MARK KISTOO

- *PO Mark Kistoo, § 87(2)(b) old at the time of the incident, is a white male, 5'7" tall, 225 lbs, with black hair and brown eyes. On January 15, 2011, PO Kistoo worked in uniform assigned to CPU with PO Bulzoni and PO Ramos in a marked vehicle. PO Kistoo was the operator.*

Memo Book

PO Kistoo's memo book entries indicate that at 1:30 p.m., he conducted a community visit at a 99-cent variety store located on Utica Avenue between President Street and Crown Street in Brooklyn. He observed § 87(2)(b) cursing at PO Bulzoni and PO Ramos stating, "Fuck you niggas." § 87(2)(b) apologized to PO Kistoo and then stated, "I'll sue you and fuck you over" (encl. 14A-B).

CCRB Testimony

On June 10, 2011, PO Mark Kistoo was interviewed by the CCRB (encl. 15A-B). On January 15, 2011, at approximately 1:40 p.m., PO Kistoo exited a store and observed PO Ramos and PO Bulzoni with § 87(2)(b). § 87(2)(b) said, "Fuck you niggas," to the officers. PO Bulzoni did not call § 87(2)(b) an "asshole." § 87(2)(b) removed his jacket and removed a mask from his jacket pocket. He showed the officers a military ID by waving it in the air and stated he had post-traumatic stress disorder. PO Kistoo recognized § 87(2)(b) excessive cursing, rage and incoherent statements as signs of the disorder and offered to get him an ambulance. § 87(2)(b) refused medical treatment, but continued cursing at the officers and called PO Bulzoni, "White boy," and other condescending words. PO Bulzoni decided that § 87(2)(b) would be issued a summons for § 87(2)(b).

PO Kistoo did not observe PO Bulzoni frisk or search § 87(2)(b). § 87(2)(b) was issued a summons and he walked over to PO Kistoo and apologized for his behavior. He then stated he was going to sue the officers and fuck them over. PO Kistoo and the officers left the location without any further interaction.

Other Evidence

Video Recording (encl. 9)

The video recording captures PO Bulzoni, with shield 2681, request identification from § 87(2)(b). § 87(2)(b) voice is elevated and he questioned PO Bulzoni about his reason for looking at him. Additionally, § 87(2)(b) makes several hand gestures. Between 4-6 seconds into the video, § 87(2)(b) removes a wallet from his right rear pocket and provides PO Bulzoni with his identification. Between 29-35 seconds into the video, an unknown witness is heard in the background stating, "He did not have to put his hands on § 87(2)(b) curse him out and call him an "asshole." The video does not capture PO Bulzoni frisk, search or use profanity against § 87(2)(b) however, those actions were discussed by several civilians as having occurred. PO Bulzoni responds, "It's called frisking;" in response to putting his hands on § 87(2)(b). PO Bulzoni does not respond to the accusation of him having called § 87(2)(b) an "asshole."

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of July 1, 2011, with regard to the incident (encl. 16).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2).

Subject Officer(s) CCRB History

- PO Bulzoni has been a member of the service for 6 years and there are no substantiated CCRB allegations against him (encl. 1A-B).
- PO Ramos has been a member of the service for 4 years and there are no substantiated CCRB allegations against him (encl. 1C).

Conclusion

Identification of Subject Officer(s)

§ 87(2)(b) provided the CCRB with the name “Bulzon” that he read from his summons. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO Leonel Ramos questioned § 87(2)(b)

Allegation B – Abuse of Authority: PO Frank Bulzoni questioned § 87(2)(b)

§ 87(2)(b) stated that he asked the officers why they had looked at him as he walked past their parked patrol car and he indicated to the CCRB that it was possibly because he had been wearing a mask covering his face due to the cold weather. He then alleged that PO Ramos and PO Bulzoni exited their vehicle and asked him, “Why did you curse at the police?”

During a level I request for information, officers need an objective, credible reason to approach and question an individual, People v. Hollman, 79 N.Y. 2d 181 1992 (encl. 0A-I).

During his sworn statement, § 87(2)(b) denied that he had used any profanity; § 87(2)(g) he was accused of such by the officers during the encounter. Neither officer indicated that § 87(2)(b) had been wearing a face make or that it was cause for their interacting with him; however, PO Ramos stated that § 87(2)(b) looked into their vehicle and stated, “Fuck you niggas,” to the officers and his memo book confirmed his testimony. PO Bulzoni alleged that § 87(2)(b) had cursed at pedestrians passing by on the sidewalk and then at the officers when they exited; however, he did not recall § 87(2)(b) exact statements.

§ 87(2)(g)

Allegation C – Discourtesy: PO Frank Bulzoni spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) alleged that PO Bulzoni asked him, “What the fuck did you say?” upon exiting his patrol car and later called him an “asshole.” § 87(2)(b) provided video footage of the encounter; however, the video footage did not record any discourteous language used by PO Bulzoni. According to § 87(2)(b) he decided to record the incident only after the alleged discourteous statements were made. § 87(2)(b) corroborated § 87(2)(b) allegation that PO Bulzoni called § 87(2)(b) an “asshole” and on the video, PO Bulzoni is accused of having called § 87(2)(b) an “asshole.” PO Bulzoni did not recall whether he had used discourteous language and PO Ramos denied that he heard any profanity used by PO Bulzoni.

According to Patrol Guide Section 203-09, regarding an officer’s conduct with the public, officers are to be courteous and respectful when interacting with members of the public (encl. 0Q).

§ 87(2)(g)

Allegation D – Abuse of Authority: PO Frank Bulzoni frisked § 87(2)(b)

It is undisputed that PO Bulzoni frisked § 87(2)(b) § 87(2)(b) described himself as sweating profusely as a result of his post-traumatic stress disorder and he acknowledged that he had to fight the urge to put his military training into use against the officers. § 87(2)(b) did not describe himself as taking any actions towards PO Bulzoni; however, PO Bulzoni stated that § 87(2)(b) made sudden movements and placed two balled fists in the air indicating that he wanted to fight. PO Bulzoni stated that these actions led him to fear for his safety and the safety of those surrounding him. PO Bulzoni noted on the stop, question and frisk report that § 87(2)(b) was frisked because he was inappropriately attired and he explained that § 87(2)(b) had multiple pockets on his pants where coupled with § 87(2)(b) demeanor, he feared a weapon was concealed.

According to Patrol Guide Section 212-11, an officer is permitted to run his hands over the clothing of an individual whom he reasonably suspects may cause physical injury to themselves or others (encl. 0R-T). § 87(2)(g)

Allegation E – Abuse of Authority: PO Frank Bulzoni searched § 87(2)(b)

§ 87(2)(b) was inconsistent with whether he had been searched and he could not detail which items had been removed from his pockets. § 87(2)(b) stated PO Bulzoni had

placed his open hands along the sides of § 87(2)(b) body, indicating that a frisk was conducted. PO Bulzoni stated that he did not recall whether he searched § 87(2)(b) however, the stop, question and frisk report indicated that § 87(2)(b) was not searched. The video shows PO Bulzoni request § 87(2)(b) identification and § 87(2)(b) removes his wallet from his back right pocket on his own. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: _____

:

Investigator: _____	_____	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date